

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after filing)</i>		Application Number	09/966,982
Total number of Pages in this submission		Filing Date	September 27, 2001
10		First Named Inventor	Lori Jo Lehman
		Group Art Unit	1651
		Examiner Name	To be assigned
		Attorney Docket No.	AQ 2018.20

**Box: Missing Parts**  
Commissioner for Patents  
Washington, D.C. 20231

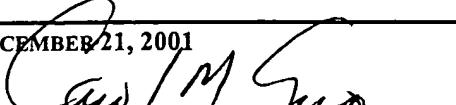
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**OFFICE OF PETITIONS****ENCLOSURES (check all that apply)**

<input checked="" type="checkbox"/> FEE TRANSMITTAL FORM (1 PG.)	<input type="checkbox"/> ASSIGNMENT PAPERS (COPY) (FOR AN APPLICATION)	<input type="checkbox"/> AFTER ALLOWANCE COMMUNICATION TO GROUP
<input type="checkbox"/> FEE ATTACHED	<input type="checkbox"/> DRAWING(S)	<input type="checkbox"/> APPEAL COMMUNICATION TO BOARD OF APPEALS AND INTERFERENCES
<input type="checkbox"/> AMENDMENT/RESPONSE	<input type="checkbox"/> LICENSING-RELATED PAPERS	<input type="checkbox"/> APPEAL COMMUNIATION TO GROUP ( <i>APPEAL NOTICE, BRIEF, REPLY BRIEF</i> )
<input type="checkbox"/> AFTER FINAL	<input type="checkbox"/> PETITION ROUTING SLIP (PTO/SB/60) AND ACCOMPANYING PETITION)	<input type="checkbox"/> PROPRIETARY INFORMATION
<input type="checkbox"/> AFFIDAVITS' DECLARATION(S)	<input type="checkbox"/> TO CONVERT A PROVISIONAL APPLICATION	<input type="checkbox"/> STATUS LETTER
<input type="checkbox"/> EXTENSION OF TIME	<input type="checkbox"/> POWER OF ATTORNEY, REVOCATION CHANGE OF CORRESPONDENCE ADDRESS	<input checked="" type="checkbox"/> ADDITIONAL ENCLOSURE(S):
<input type="checkbox"/> EXPRESS ABANDONMENT REQUEST	<input type="checkbox"/> TERMINAL DISCLAIMER	<input type="checkbox"/> COPY OF NOTICE TO FILE MISSING PARTS DATED 10/23/01 (2 PGS.); DECLARATION FOR UTILITY APPL. EXECUTED BY LEHMAN ET AL. (3 PGS.); REQUEST FOR CORRECTED FILING RECEIPT (2 PGS.); COPY OF FILING RECEIPT (1 PG.); AND RETURN POSTCARD.
<input type="checkbox"/> INFORMATION DISCLOSURE STATEMENT W/1449	<input type="checkbox"/> SMALL ENTITY STATEMENT	
<input type="checkbox"/> CERTIFIED COPY OF PRIORITY DOCUMENT(S)	<input type="checkbox"/> REQUEST FOR REFUND	
<input type="checkbox"/> RESPONSE TO MISSING PARTS/ INCOMPLETE APPLICATION		
<input checked="" type="checkbox"/> RESPONSE TO MISSING PARTS UNDER 37 CFR 1.52 OR 1.53 COPY OF PTO-1533		
<input type="checkbox"/> ISSUE FEE TRANSMITTAL	<b>REMARKS:</b>	
<input type="checkbox"/>		

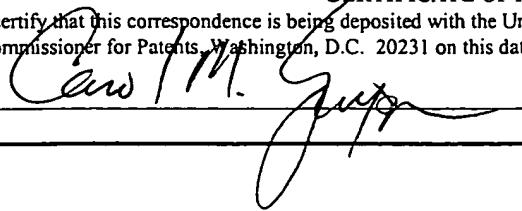
McCUTCHEN, DOYLE, BROWN & ENERSEN LLP  
THREE EMBARCADERO CENTER, SUITE 1800  
SAN FRANCISCO, CA 94111  
TELEPHONE: (650) 849-4950  
FACSIMILE: (650) 849-4800

DATE: DECEMBER 21, 2001

BY:   
CAROL M. GRUPPI (REG. NO. 87,341)  
ANTOINETTE F. KONSKI (REG. NO. 34,202)

**CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box: Missing Parts, Commissioner for Patents, Washington, D.C. 20231 on this date: December 21, 2001.

By:  Name of person signing: Carol M. Gruppi

# FEE TRANSMITTAL FOR FY 2002

Patent fees are subject to annual revision.

Complete if Known

Application Number	09/366,982
Filing Date	September 27, 2001
First Named Inventor	Lori Jo Lehman
Examiner Name	To Be Assigned
Group Art Unit	1651

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APR 17 2002

OFFICE OF PETITIONS

## TOTAL AMOUNT OF PAYMENT

(\$130.00)

Attorney Docket No. AQ 2018.20

## METHOD OF PAYMENT

1.  The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 50-1189

Deposit Account Name McCutchen Doyle Brown &amp; Enersen LLP

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17  
 Applicant claims small entity status. See 37 CFR 1.27

2.  Payment Enclosed:

Check  Credit Card  Money Order  Other

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$0)

## 2. EXTRA CLAIM FEES

Total Claims	- 20** =	Extra Claims	Fee from below	Fee Paid
Independent Claims	- 3** =	*	x	= \$
Multiple Dependent				= \$
Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claims, if not paid
109	84	209	42	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0)

\*\* or number previously paid, if greater; For reissues, see above.

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	330	219	160	Notice of Appeal	
120	330	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

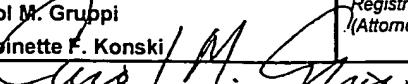
Other fee (specify) Corrected Filing Receipt

25.00

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$155.00)

## SUBMITTED BY

Name (Print/Type)	Carol M. Gruppi Antoinette F. Konski	Registration No. (Attorney/Agent)	37,341 34,202	Telephone	(650) 849-4902 (650) 849-4950
Signature				Date	12/21/01

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231. 52067685



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/966,982	09/27/2001	Lori Jo Lehman	AQ 2018.20

Antoinette F. Konski  
 McCutchen, Doyle, Brown & Enersen, LLP  
 Three Embarcadero Center, 18th Floor  
 San Francisco, CA 94111

CONFIRMATION NO. 7317  
 FORMALITIES LETTER

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0000000006954849\*

APR 17 2002

OFFICE OF PETITIONS

Date Mailed: 10/23/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawings submitted to the Office are not electronically reproducible. Drawing sheets must be submitted on paper which is flexible, strong, white, smooth, non-shiny, and durable (see 37 CFR 1.84(e));

*A copy of this notice **MUST** be returned with the reply.*

PART 2 - COPY TO BE RETURNED WITH RESPONSE

## DECLARATION FOR UTILITY PATENT APPLICATION

## AS BELOW-NAMED INVENTORS, WE HEREBY DECLARE THAT:

Our residence, post office address, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: **Novel Strain Of Streptomyces For Controlling Plant Diseases** the specification of which is attached hereto unless the following box is checked:

was filed on September 27, 2001 as United States Application Serial No. 09/966,982.

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OFFICE OF PETITIONS

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date

We hereby claim the benefit under 35 U.S.C. § 120 of the United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Application Serial No.	Filing Date	Status
09/671,943	September 27, 2000	Pending

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title of 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 11-21-01

By: Lori Jo Lehman  
Name: Lori Jo Lehman

Residence: 1218 Las Encinas Court, Vacaville, CA 95687

Citizenship: USA

Post Office Address: 1218 Las Encinas Court, Vacaville, CA 95687

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Randy Jay McCoy

Residence: 3212 Breton Avenue, Davis, CA 95616

Citizenship: USA

Post Office Address: 3212 Breton Avenue, Davis, CA 95616

Date: No. 21, 2001

By: Caiyao Yuan  
Name: Caiyao Yuan Caiyao C

Residence: 1213 Chestnut Lane, Davis, CA 95616

Citizenship: China

Post Office Address: 1213 Chestnut Lane, Davis, CA 95616

Date: Nov. 21, 2001

By: Denise Carol Manker  
Name: Denise Carol Manker

Residence: 3037 Prado Lane, Davis, CA 95616

Citizenship: USA

Post Office Address: 3037 Prado Lane, Davis, CA 95616

Date:

Nov 27, 2001

By: Jimmy E. Orjala  
Name: Jimmy Ensio Orjala  
Residence: 2905 Lillard Drive, Davis, CA 95616  
Citizenship: USA  
Post Office Address: 2905 Lillard Drive, Davis, CA 95616

Date:

Nov. 21, 2001

By: Pamela Gail Marrone  
Name: Pamela Gail Marrone  
Residence: 3333 Victoria Place, Davis, CA 95616  
Citizenship: USA  
Post Office Address: 3333 Victoria Place, Davis, CA 95616

Date:

11/21/2001

By: Jorge I. Jimenez  
Name: Jorge Isaac Jimenez Santamaria  
Residence: 2326 V Street, Apt. #4, Sacramento, CA 95818  
Citizenship: Panama  
Post Office Address: 2326 V Street, Apt. #4, Sacramento, CA 95818

## Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

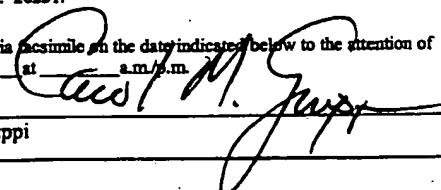
Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Commissioner for Patents, Washington D.C. 20231.

Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner \_\_\_\_\_ at Facsimile No. \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

Dated: December 21, 2001

Name of Person Certifying:

Printed Name: Carol M. Gruppi



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Lori Jo Lehman et al.

Serial No.: 09/966,982

Filing Date: September 27, 2001

For: NOVEL STRAIN OF STREPTOMYCES  
FOR CONTROLLING PLANT DISEASES

Assignee: AgraQuest, Inc.

Examiner: To Be Assigned

Group Art Unit: 1651

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OFFICE OF PETITIONS

Office of Initial Patent Examination's  
Customer Service Center  
Commissioner for Patents  
Washington, D.C. 20231

## REQUEST FOR CORRECTED FILING RECEIPT

Sir:

Applicant respectfully requests that the Official Filing Receipt (PTO form 103P) for the above-identified patent application, a copy of which is attached with the correction marked in red ink, be corrected. The Filing Receipt contains an error in one of the inventor's names.

Please correct the Filing Receipt to read as follows:

Please change "Cai-yao Yuan" to -- Caiyao Yuan--.

The correction is not due to any error by applicant and no fee is due. If for any reason a fee is found to be necessary, our Deposit Account No. \_\_\_\_\_ may be charged therefore. *A duplicate copy of this sheet is enclosed.*

At least one of the above corrections is due to applicant's error and the fee under 37 CFR §1.19(h) of \$25.00 is paid as follows:

Enclosed is Check No. \_\_\_\_\_ for \$25.00.

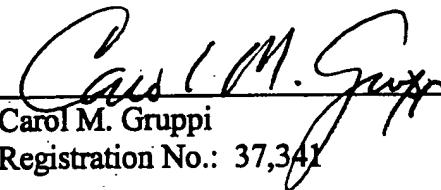
Please charge Deposit Account No. 50-1189, Billing No. 23893-7180, in the amount of \$25.00 to cover the above-fees. *A duplicate copy of this sheet is enclosed.*

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1189, Billing No. 23893-7180.  
*A duplicate copy of this sheet is enclosed.*

DATE: December 21, 2001

Respectfully submitted,

By:

  
 Carol M. Gruppi  
 Registration No.: 37,341

Antoinette F. Konski  
 Registration No. 34,202

McCutchen, Doyle, Brown & Enersen, LLP  
 Three Embarcadero Center, Suite 1800  
 San Francisco, California 94111  
 Telephone: (650) 849-4902  
 Telefax: (650) 849-4800

**Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):**

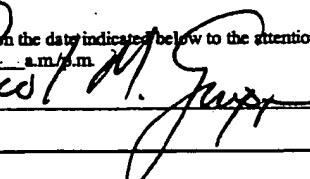
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Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner \_\_\_\_\_ at Facsimile No. \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

Dated: December 21, 2001

Name of Person Certifying:

Printed Name: Carol M. Gruppi


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application for:  
Lori Jo Lehman et al.

Serial No.: 09/966,982

Filing Date: September 27, 2001

For: NOVEL STRAIN OF STREPTOMYCES  
FOR CONTROLLING PLANT DISEASES

Assignee: AgraQuest, Inc.

Examiner: To Be Assigned

Group Art Unit: 1651

Office of Initial Patent Examination's  
Customer Service Center  
Commissioner for Patents  
Washington, D.C. 20231

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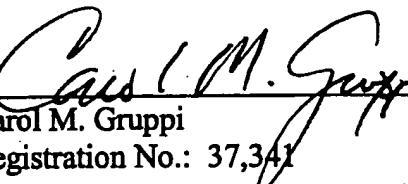
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*A duplicate copy of this sheet is enclosed.*

DATE: December 21, 2001

Respectfully submitted,

By:   
 Carol M. Gruppi  
 Registration No.: 37,341

Antoinette F. Konski  
 Registration No. 34,202

McCutchen, Doyle, Brown & Enersen, LLP  
 Three Embarcadero Center, Suite 1800  
 San Francisco, California 94111  
 Telephone: (650) 849-4902  
 Telefax: (650) 849-4800



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
 www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/966,982	09/27/2001	1651	1052	AQ 2018.20	9	39	2

## CONFIRMATION NO. 7317

## FILING RECEIPT



\*OC00000006954848\*

Antoinette F. Konski  
 McCutchen, Doyle, Brown & Enersen, LLP  
 Three Embarcadero Center, 18th Floor  
 San Francisco, CA 94111

Date Mailed: 10/23/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

*Caiyao* Lori Jo Lehman, Vacaville, CA;  
 Randy Jay McCoy, Davis, CA;  
 Cai-yao Yuan, Davis, CA;  
 Denise Carol Manker, Davis, CA;  
 Jimmy Ensio Orjala, Davis, CA;  
 Pamela Gail Marrone, Davis, CA;  
 Jorge Isaac Jimenez Santamaria, Sacramento, CA;

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OCT 27 2001

MDB&amp;E

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APR 17 2002

OFFICE OF PETITIONS

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CIP OF 09/671,943 09/27/2000

## Foreign Applications

If Required, Foreign Filing License Granted 10/23/2001

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Docket: 23893-7180  
 Action: status check  
 Date Due: 3/27/03  
 Critical Date:  
 Docketed By: 7183  
 Attorney App.:  
 Filed By:  
 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

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 Title 37 C.F.R.

NOV 01 2001 Novel strain of streptomyces for controlling plant diseases  
*mh*

1050